

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

04-CV-0177A

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983
(Prisoner Complaint Form)**

1. CAPTION OF ACTION

- A. **Full Name and Prison Number of Plaintiff:** NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who files an application and Authorization.*

AMY RODRIGUEZ
#97-G-1763

-vs.-

- B. **Full Name(s) of Defendant(s):** NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The Court may not consider a claim against anyone not identified in this section as a defendant.*

1. NEW YORK STATE DEPARTMENT OF CORRECTIONS 2. ALBION CORRECTIONAL FACILITY
3. 4.

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. §1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§1331, 1343(3) and (4), and 2201.

This action is being brought against the above named defendants as a civil action pursuant to 28 U.S.C. §§1331 and encroachment against Amendment 8 and Amendment 14.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prison Number of Plaintiff: **AMY RODRIGUEZ 97-G-1763**
Present Place of Confinement & Address: **3595 STATE SCHOOL ROAD
ALBION, NEW YORK 14411**

DEFENDANT'S INFORMATION NOTE: To list additional defendants, use this format on another sheet of paper.

Name of Defendant: **NEW YORK STATE DEPARTMENT OF CORRECTIONS**

(If applicable) Official Position of Defendant: **GLENN GOORD, COMMISSIONER**

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: **1220 WASHINGTON AVENUE BUILDING #2
ALBANY, NEW YORK 12206**

Name of Defendant: **ALBION CORRECTIONAL FACILITY**

If applicable) Official Position of Defendant: **ANGINELL ANDREWS, SUPERINTENDENT**

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: **3595 STATE SCHOOL ROAD
ALBION, NEW YORK 14411**

Name of Defendant:

(If applicable) Official Position of Defendant:

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant:

Name of Defendant:

(If applicable) Official Position of Defendant:

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant:

4. PREVIOUS ACTIONS IN STATE AND FEDERAL COURT

- 1.) Have you begun any other actions in state or federal court dealing with the same facts involved in this action? Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:
Plaintiff(s):
Defendant(s):
2. Court (if federal court, name the district, if state court, name the county):
3. Docket or Index Number:
4. Name of judge to whom case was assigned:
5. The approximate date the action was filed:
What was the disposition of the case?
Is it still pending? Yes No
If not, give the approximate date it was resolved. _____
- 6.

- Disposition (check the boxes which apply):
- Dismissed (check the box which indicates why it was dismissed):
1. By court sua sponte as frivolous, malicious or for failing to state a claim upon which relief can be granted;
 - By court for failure to exhaust administrative remedies;
 - By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
 - by court due to your voluntary withdrawal of claim;
 Judgment upon motion or after trial entered for
 plaintiff
 defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. §1983. (This list does not include all possible claims).

- | | | |
|--------------------|----------------------|-----------------------------|
| • Religion | Access to the Courts | Search & Seizure |
| • Free Speech | False Arrest | Malicious Prosecution |
| • Due Process | Excessive Force | Denial of Medical Treatment |
| • Equal Protection | Failure to Protect | Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support of your claims.

Fed. R. Civ. P. 8(a) states that pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83,86 (2d Cir. 1995)

Fed. R. Civ. P. 10(b) states that "[a]ll averments of claim... Shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On March 2001 until present

Defendant (give name and position held of each defendant involved in this incident)
New York State Department of Corrections, Glenn Goord, Commissioner

Did the following to me (briefly state what each defendant named above did):

Allowed bogus misbehavior reports to be affirmed that involved the malicious prosecution of the claimant, denial of medical treatment, failure to protect from the unprofessional sexual staff conduct towards claimant, Letters informing the Commissioner of such acts did not receive the full investigation that was needed. Grievances were not properly channeled nor investigated. Denial of mental health treatment in that claimant was not diagnosed properly and given medication for ailments that possibly could not have existed and could have been detrimental to the claimant's mental health stability. When the claimant realized that something was wrong mentally, the facility mental health department ignored her claims and she was put on numerous medications for diagnosis such as depression, schizophrenia, addictive compulsive behavior, and bio-polar disorder. These diagnoses have caused the claimant to reevaluate her own state of mind. Eventually, the claimant has been taken with post stress traumatic disorder because the facility is located near a firing range that is within 200 – 300 yards. This causes the claimant to have reactive nerve reflexes, nightmares, and paranoia.

The constitutional basis for this claim under 42 U.S.C. §1983 is: **Amendment 8 and Amendment 14**

The relief I am seeking for this claim is (briefly state the relief sought: **Monetary**

Exhaustion of Administrative Remedies

According to **42 U.S.C. § 1997e (a)**., "no action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Did you grieve and/or appeal this claim: Yes ✓No _____

If your answer is yes, state the result: Per the attached documentation there some grievances granted and some grievances denied. (See attached exhibits)

Did you appeal this decision: Yes ✓ No _____

If you answer is yes, state the result: _____

Attach any documents which indicate that you have exhausted your administrative remedies regarding this claim.

If your answer is no, state why you did not:

B. SECOND CLAIM: On March 21, 2001

Defendant (give name and position held of each defendant involved in this incident)
ALBION CORRECTIONAL FACILITY, ANGINELL ANDREWS, SUPERINTENDENT

Did the following to me (briefly state what each defendant named above did):

Maliciously prosecuted by Albion Correctional Facility in that unwarranted searches, verbal harassment, sexual harassment, theft of property from the package room, unjustifiable keep-lock and SHU confinement, bogus misbehavior reports, deprivation of showers and recreation while confined in SHU housing; denial of medical treatment in that a skin condition was not treated properly, denial of treatment for acid reflux disease, and ganglion cysts. Allowed bogus misbehavior reports to be affirmed that involved the malicious prosecution of the claimant, denial of medical treatment, failure to protect from the unprofessional sexual staff conduct towards claimant, Letters informing the Commissioner of such acts did not receive the full investigation that was needed. Grievances were not properly channeled nor investigated. Denial of mental health treatment in that claimant was not diagnosed properly and given medication for ailments that possibly could not have existed and could have been detrimental to the claimant's mental health stability. When the claimant realized that something was wrong mentally, the facility mental health department ignored her claims and she was put on numerous medications for diagnosis such as depression, schizophrenia, addictive compulsive behavior, and bio-polar disorder. These diagnoses have caused the claimant to reevaluate her own state of mind. Eventually, the claimant has been taken with post stress traumatic disorder because the facility is located near a firing range that is within 200 – 300 yards. This causes the claimant to have reactive nerve reflexes, nightmares, and paranoia. Failure to protect from the assault of another inmate towards claimant; denial of due process in hearings; not affording the opportunity to present evidence that substantiated the framing of placing razor blades and other contraband in possession of claimant. Denial of mental health treatment in that claimant was not diagnosed properly and given medication for ailments that possibly could not have existed and could have been detrimental to the claimant mental health stability.

The constitutional basis for this claim under 42 U.S.C. §1983 is: Amendment 8 and Amendment 14

The relief I am seeking for this claim is (briefly state the relief sought: **Monetary**

Exhaustion of Administrative Remedies

According to **42 U.S.C. § 1997e (a)**, "no action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Did you grieve and/or appeal this claim: Yes No _____

If your answer is yes, state the result : **Some appeals were granted and some were denied**

Did you appeal this decision: Yes _____ No _____

If you answer is yes, state the result: _____

Attach any documents which indicate that you have exhausted your administrative remedies regarding this claim.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I am seeking monetary relief for the pain, suffering, humiliation, cruel and inhuman treatment, mental anguish, denial of medical attention, deprivation of recreation, showers, and verbal harassment.

Do you want a jury trial? Yes No _____

I declare under penalty that the foregoing is true and correct.

Executed on March 15th 2004
(date)

NOTE: Each plaintiff must sign this complaint and must sign all subsequent papers filed with the Court.

Anny Rodriguez

Signature(s) of Plaintiff(s)